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Customer No. 22,852

Attorney Docket No.: 6530.0290

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:)
)
Thomas O. BALES et al.)
)
Serial No.: 10/074,012) Group Art Unit: 3736
)
Filed: February 14, 2002) Examiner: Unassigned
)
For: RADIAL JAW BIOPSY)
FORCEPS)

Commissioner of Patents, USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Sir:

**DECLARATION OF LESLIE BOOKOFF IN SUPPORT
OF RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)**

I, Leslie Bookoff, hereby declare as follows:

1. I am a registered patent attorney (PTO Reg. No. 38,084) at the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, of 1300 I Street, NW, Washington, DC 20005. I have first hand knowledge of the facts recited in this Declaration.

2. I understand that Charles R. Slater ("Slater"), Kevin W. Smith ("Smith"), and Thomas O. Bales ("Bales") are joint inventors in the above-captioned reissue patent application.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com



3. I have read the Decision on the Petition mailed on May 20, 2003, dismissing the Petition filed on July 3, 2003. I understand from that Decision, at page 3, that a renewed petition must show that: (1) a *bona fide* attempt has been made to present to each of Slater and Smith the original U.S. Patent 6,024,708 ("708 Patent") and any further amendments since February 14, 2002, and (2) Slater and Smith refuse to join in this reissue application. As detailed below, each of Slater and Smith have been presented with the required documentation and have refused to join this application.

4. On June 11, 2003, I prepared and signed a letter to each of Slater and Smith enclosing a copy of the reissue application (i.e., containing a complete copy of '708 Patent and the Preliminary Amendment filed with the reissue application on February 14, 2002), a copy of the Reissue Declaration filed with the reissue application, and a copy of U.S. Patent No. 6,264,617 that is referenced in the Reissue Declaration. A copy of each of these letters, without the enclosure, is attached as Exhibit A. These letters were sent via Federal Express to the last known work address of Slater and Smith (i.e., Syntheon, Inc., 8210 N.W. 27th Street, Miami, Florida 33122). The Federal Express tracking reports for these packages (attached as Exhibit B) indicate that the package to Slater and the package to Smith were each delivered at the work address at 10:30 a.m. on June 13, 2003.

5. The June 11, 2003 letters provided each of Slater and Smith a request to sign the Reissue Declaration and join the reissue application. The letters further requested return of the signed Reissue Declaration by June 23, 2003 and provided

a self-addressed Federal Express envelope for return of the signed Reissue Declaration. The letters further invited Slater and Smith to contact me or Kevin Mun, a registered patent agent (PTO Reg. No. 50,585) at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, should they have any questions.

6. On June 17, 2003, I attempted to call Slater and Smith to follow up on the status of the package. I first called Slater at his work telephone number (305-716-7000). Since he did not answer the call, I left a message at his personal voicemail reiterating the request to sign the Declaration and invited him to call me with any questions that he might have. To date, the call has not been returned.

7. Also on June 17, 2003, I called Smith at his work telephone number (305-716-7000) and had a conversation with him. During the telephone conversation, Smith made clear that he was refusing to sign the Reissue Declaration and join this reissue application.

8. On June 25, 2003, I prepared and signed another letter to Slater to follow up on the message that I left on his voicemail on June 17, 2003. That letter, attached as Exhibit C, provided Slater with a final request to sign the Reissue Declaration and join this reissue application. That letter requested return of the signed Reissue Declaration by July 7, 2003 and stated that non-receipt of the signed Reissue Declaration by that date would be understood to be a refusal by Slater to join this reissue application. That June 25, 2003 letter was sent via Federal Express to Slater's work address. The Federal Express tracking report for this letter (attached as Exhibit D) indicates that the letter was delivered at the work address at 10:29 a.m. on June 26, 2003.

9. Also on June 25, 2003, I prepared and signed a letter to Smith, a copy of which is attached as Exhibit E, to confirm the June 17, 2003 telephone conversation I had with him. That letter stated my understanding that Smith was refusing to sign the Reissue Declaration and join this reissue application. The letter further requested that he let me know if my understanding was incorrect. That June 25, 2003 letter was sent via Federal Express to Smith's work address. The Federal Express tracking report for this letter (attached as Exhibit F) indicates that the letter was delivered at the work address at 10:29 a.m. on June 26, 2003.

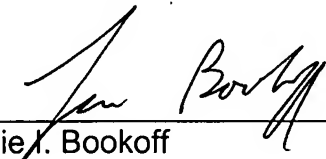
10. To date, Slater has not replied to the June 11, 2003 and June 25, 2003 letters or the June 17, 2003 voicemail message. Also to date, Slater has not provided a signed Reissue Declaration. In addition, with the exception of his clear refusal to sign the Reissue Declaration and join this application made orally to me on June 17, 2003, Smith to date has not otherwise replied to the June 11, 2003 and June 25, 2003 letters or provided a signed Reissue Declaration. Each of Slater and Smith therefore have made clear a refusal to sign the Reissue Declaration and join in this reissue application.

11. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code

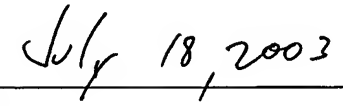
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Washington, DC 20005
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and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Leslie J. Bookoff



Date

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LESLIE I. BOOKOFF

(202) 408-4140

les.bookoff@finnegan.com

June 11, 2003

Mr. Kevin W. Smith
Syntheon, Inc.
8210 N.W. 27th Street
Miami, FL 33122

VIA FEDERAL EXPRESS

Re: U.S. Reissue Patent Application No. 10/074,012
Based on U.S. Patent No. 6,024,708 Entitled
"RADIAL JAW BIOPSY FORCEPS"
Our Reference: 06530.0290-00000

Dear Mr. Smith:

We are working with Boston Scientific Corp. and its subsidiary Symbiosis (collectively "BSC") on the above-referenced reissue application, on which you are a named inventor along with Charles Slater and Thomas Bales. With this letter, we enclose a copy of the application including a complete copy of original U.S. Patent No. 6,024,708, upon which the reissue application is based, and a Preliminary Amendment filed with the application on February 14, 2003. We also enclose a copy of the Reissue Declaration that also was filed with the application. That Declaration already has been executed by Mr. Bales. In addition, we enclose a copy of U.S. Patent No. 6,264,617, which is referenced in the Declaration.

We understand that BSC previously forwarded to you documents relating to this reissue application and contacted you regarding execution of the Declaration. BSC once again requests that you sign the Declaration and thereby join this application.

Please review the enclosed application, sign the enclosed Declaration, and send them back to us as soon as possible. We would appreciate receipt of the executed Declaration by June 23, 2003. We enclose a self-addressed Federal Express envelope for return of the signed Declaration.

Mr. Kevin W. Smith
June 11, 2003
Page 2

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HENDERSON
FARABOW
GARRETT &
DUNNER 

Please contact me or Kevin Mun (202-408-4222) if you have any questions.

With best regards,

Sincerely,



Leslie I. Bookoff

LIB/KKM/dd
Enclosures



FINNEGAN
HENDERSON
FARABOW
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DUNNER LLP

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les.bookoff@finnegan.com

June 11, 2003

Mr. Charles R. Slater
Syntheon, Inc.
8210 N.W. 27th Street
Miami, FL 33122

VIA FEDERAL EXPRESS

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Based on U.S. Patent No. 6,024,708 Entitled
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Our Reference: 06530.0290-00000

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Mr. Charles R. Slater
June 11, 2003
Page 2

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GARRETT &
DUNNER LLP

Please contact me or Kevin Mun (202-408-4222) if you have any questions.

With best regards,

Sincerely,



Leslie I. Bookoff

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Reference number 06530.0290-00000
Delivered to Receipt/Fmt desk
Delivery location MIAMI FL
Service type Priority Pak

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Jun 13, 2003	10:30 am	Delivered	MIAMI FL
	8:28 am	On FedEx vehicle for delivery	MIAMI FL
	7:01 am	Arrived at FedEx Destination Location	MIAMI FL
	6:56 am	Left FedEx Ramp	MIAMI FL
	6:18 am	Arrived at FedEx Ramp	MIAMI FL
	4:14 am	Left FedEx Sort Facility	MEMPHIS TN
	1:24 am	Arrived at Sort Facility	MEMPHIS TN
	1:19 am	Left FedEx Sort Facility	MEMPHIS TN
Jun 12, 2003	11:36 pm	Left FedEx Ramp	DULLES VA
	9:42 pm	Arrived at FedEx Ramp	CHANTILLY VA
	9:19 pm	Left FedEx Origin Location	WASHINGTON DC
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Tracking Report for 7/16/03 letter to
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613666207533
L.BARRETO
Jun 11, 2003
Jun 13, 2003 10:30 am

Reference number
Delivered to
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Service type

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Receipt/Frnt desk
MIAMI FL
Priority Pak

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Jun 13, 2003	10:30 am	Delivered	MIAMI FL
	8:28 am	On FedEx vehicle for delivery	MIAMI FL
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	6:56 am	Left FedEx Ramp	MIAMI FL
	6:18 am	Arrived at FedEx Ramp	MIAMI FL
	4:14 am	Left FedEx Sort Facility	MEMPHIS TN
	1:24 am	Arrived at Sort Facility	MEMPHIS TN
	1:18 am	Left FedEx Sort Facility	MEMPHIS TN
Jun 12, 2003	11:36 pm	Left FedEx Ramp	DULLES VA
	9:42 pm	Arrived at FedEx Ramp	CHANTILLY VA
	9:19 pm	Left FedEx Origin Location	WASHINGTON DC
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Charles Slater.

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(202) 408-4140

les.bookoff@finnegan.com

June 25, 2003

Mr. Charles R. Slater
Syntheon, Inc.
8210 N.W. 27th Street
Miami, FL 33122

VIA FEDERAL EXPRESS

Re: U.S. Reissue Patent Application No. 10/074,012
Based on U.S. Patent No. 6,024,708 Entitled
"RADIAL JAW BIOPSY FORCEPS"
Our Reference: 06530.0290-00000

Dear Mr. Slater:

This letter follows up on the message that I left on your voicemail on June 17, 2003. In that message, I reiterated BSC's request of you to execute the Declaration forwarded to you on June 11, 2003 and invited you to call me with any questions that you may have. Since the June 11, 2003 letter to you, we have not received the signed Declaration or any communication from you. Therefore, we are writing to you with BSC's final request for you to sign the Declaration and join the above-referenced reissue application.

Please forward the signed Declaration to us by July 7, 2003. Our non-receipt of the signed Declaration by July 7, 2003 will be understood by us to be a refusal to join this reissue application.

Please contact me if you have any questions.

With best regards,

Sincerely,

A handwritten signature in black ink, appearing to be 'Leslie I. Bookoff'.

Leslie I. Bookoff

LIB/KKM/dd



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600

7/16/2003

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Signed For By: L.BARRETO



Delivery Location: 8210 NW 27 ST

Delivery Date: June 26, 2003

Delivery Time: 1122

Shipping Information:

Tracking No: 613666213470

Ship Date: June 25, 2003

Recipient:

CHARLES SLATER
SYNTHEON, INC.
8210 N.W. 27TH STREET
MIAMI, FL 33122
US

Shipper:

FINNEGAN HENDERSON
FINNEGAN HENDERSON
1300 I ST NW # 600
WASHINGTON, DC 200053314
US

Shipment Reference Information:

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Tracking number 613666213470
Signed for by L. PANADA
Ship date Jun 25, 2003
Delivery date/time Jun 26, 2003 10:29 am

Reference number 06530.0290.00000
Delivery location MIAMI FL
Service type Priority Envelope

Date/time	Status	Location	Comments
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(202) 408-4140
les.bookoff@finnegan.com

June 25, 2003

Mr. Kevin W. Smith
Syntheon, Inc.
8210 N.W. 27th Street
Miami, FL 33122

VIA FEDERAL EXPRESS

Re: U.S. Reissue Patent Application No. 10/074,012
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Our Reference: 06530.0290-00000

Dear Mr. Smith:

Based on our telephone conversation on June 17, 2003, we understand that you are refusing to sign the Declaration and join this reissue application. If our understanding is incorrect, please let us know as soon as possible.

Sincerely,

Leslie I Bookoff

LIB/KKM/dd



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Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
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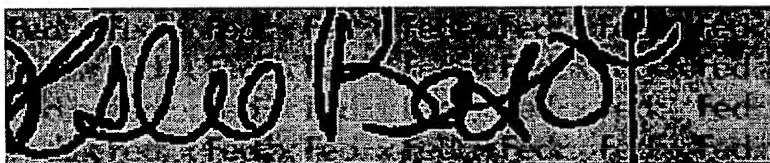
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Delivery Location: 8210 NW 27 ST

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Delivery Time: 1122

Shipping Information:

Tracking No: 613666213469

Ship Date: June 25, 2003

Recipient:

KEVIN SMITH
SYNTHEON, INC.
8210 N.W. 27TH STREET
MIAMI, FL 33122
US

Shipper:

FINNEGAN HENDERSON
FINNEGAN HENDERSON
1300 I ST NW # 600
WASHINGTON, DC 200053314
US

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